

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Mario Gibson,

Petitioner,

v.

Case No. 1:22cv773

Lieutenant Lucy Yaw,

Respondent.

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on April 7, 2023 (Doc. 9).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties may forfeit rights on appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Plaintiff filed a Notice of No Objection to the R&R on May 10, 2023 (Doc. 12). No objections further objections to the Magistrate Judge’s R&R (Doc. 9) have been filed and the time to do so has expired.

Accordingly, it is **ORDERED** that the R&R (Doc. 9) of the Magistrate Judge is hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, the following claims set forth in Plaintiff’s Complaint are **DISMISSED** with prejudice: (1) all requests for relief that Yaw be disciplined; and (2) all claims against Yaw in her official capacity.

The Eighth Amendment conditions of confinement claim against Yaw relating to the to the conditions of Plaintiff’s confinement for the week of September 9, 2022,

through September 15, 2022, are allowed to proceed and all other claims against Yaw in her individual capacity are **DISMISSED** without prejudice for failure to state a claim.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of any Order adopting this Report and Recommendation would not be taken in “good faith” and therefore **DENIES** plaintiff leave to appeal *in forma pauperis*. See *McGore v. Wigglesworth*, 114 F.3d 601 (6th Cir. 1997).

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett, Judge
United States District Court